IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11058 of 2003

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT
and
Hon'ble MR.JUSTICE A.L.DAVE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RN MEMBERS ASSOCIATION

Versus

AHMEDABAD ELECTRICITY CO LTD

Appearance:

1. Special Civil Application No. 11058 of 2003

MRS FALGUNI D PATEL for Petitioner.
MR KB PUJARA for respondent No.1.
MR DN PATEL for respondent No. 2
MR RM CHHAYA for respondent No.3.

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT
and
MR.JUSTICE A.L.DAVE

Date of decision: 07/08/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE A.L.DAVE)

1. Rule. Service of Rule is waived by learned advocate, Mr. K.B. Pujara, for Ahmedabad Electricity Company, learned advocate, Mr. R.M. Chhaya, for Ahmedabad Municipal Corporation and learned advocate, Mr. D.N. Patel, for Ahmedabad Urban Development Authority.

2. In this petition, the learned counsel appearing for the respondents have already agreed and waived the service of Rule, and upon joint request and considering the peculiar facts and special circumstances obtainable in this matter, it is being disposed of by this judgment finally.

3. The petition pertains to "High Rise Building" in respect of which "No Objection Certificate" was not issued, situated in the City of Ahmedabad and also within the precincts of Ahmedabad Municipal Corporation (AMC) and Ahmedabad Urban Development Authority (AUDA).

4. After having heard the learned counsel appearing for the parties and considering peculiar facts and special circumstances, we propose to dispose of finally this petiton with following directions:

(i) The petitioner shall apply to AMC for the purpose of obtaining "No Objection Certificate" and after having made such an application, it will be incumbent upon the AMC to decide either by way of granting or rejecting No Objection Certificate within a period of 30 days from the date of such application along with the payment of scrutiny fees;

(ii) Upon receipt of such "No Objection Certificate", the petitioner shall apply for grant of Building Use Permission either under GDCR or BPMC Act to AMC or AUDA, as the case may be, in prescribed from with requisite date and information within a period of 30 days with a copy to AEC, and, on making such application, AEC will be at liberty to supply electric connection to the petitioner, on usual terms and conditions, and the AEC shall not discontinue or disconnect electric supply of the petitioner to whom such supply was already granted till the decision is taken about Building Use Permission;

(iii) In the event of rejection of Building Use Permission, for whatever reason, it shall be

incumbent upon the authority to send such a Report to AEC within one week from such rejection and intimation of the same shall be sent to the petitioner;

(v) Upon receipt of the Report from AMC and/or AUDA with regard to the rejection of the Building Use Permission to the petitioner, the AEC shall, before disconnecting electric supply, serve a notice to the petitioner granting him 30 days' time from the date of receipt of notice, with a view to facilitate him with an opportunity for making alternative arrangement or to avail permissible legal redressal.

5. It is clarified, for the removal doubt, if any, that the notices earlier issued by the authorities shall not be acted upon and implemented by which time the authorities are directed to decide the application made and/or to be made by the petitioner, and it will be open for the authorities for further action after consideration of the application of the petitioner and take permissible legal actions.

6. This petition shall stand finally disposed of, with the aforesaid directions. However, we clarify, with a view to remove doubt, that in case of any difficulty to any party, it will be open for such party to approach or move this Court. Upon request, direct service is granted.

8. Rule is made absolute to the above extent without any order as to costs.

[J.N. BHATT, ACTG. C.J.]

[A. L. DAVE, J.]

gt